

REMARKS

This is a full and timely response to the outstanding final Office Action mailed July 1, 2003. Claims 1-29 remain pending. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

I. Informalities in the Specification Corrected

The substitute specification, previously submitted in Applicant's First Response and Amendment (April 3, 2003), addressed several informalities cited by the Examiner. The current Office Action objects to the previously submitted substitute specification as containing several minor "spacing errors." Accordingly, the previously submitted substitute specification was not entered.

The indicated "spacing" errors have been corrected in the enclosed substitute specification. No new matter has been added. Therefore, Applicant respectfully requests that the objection to the specification be withdrawn and the substitute specification entered.

II. Informalities in the Claims Corrected

The Office Action objects to claim 27 because of an informality. As indicated above, claim 27 has been amended to correct this informality. Therefore, Applicant respectfully requests that the objection to claim 27 be withdrawn.

III. Claims 1 – 4, 7 – 16, 19 – 23, 26, 27, and 29 are Patentable Over U.S. Patent No. 5,907,491 in View of U.S. Patent No. 6,141,347

The Office Action rejects claims 1 – 4, 7 – 16, 19 – 23, 26, 27, and 29 under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 5,907,491 to Canada *et al.* (“the ‘491 patent”) in view of U.S. Patent No. 6,141,437 to Shaughnessy et al. (“the ‘347 patent”). Specifically, the Office Action argues that the ‘491 patent teaches all of the claimed features of independent claims 1, 8, 13, 20, and 27 except for a wide area network and a predefined communication protocol. Furthermore, the Office Action argues that the additional features of dependent claims 2 – 4, 7, 9 – 16, 19, 21 – 23, 26, and 29 are each taught by the ‘347 patent and that it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teachings of the ‘491 patent to include these features that are allegedly taught by the ‘347 patent.

First, Applicant maintains that the purported motivation or suggestion to combine the ‘347 and ‘491 patents provided by the Office Action is a classic example of impermissible hindsight reasoning based solely on Applicant’s disclosure. In order to establish a *prima facie* case of obviousness by combining references, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill, to modify the primary reference (the ‘491 patent) in the manner allegedly taught by the secondary reference (the ‘347 patent). See e.g., MPEP §§2142, 2143; *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir 1991); *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

Applicant respectfully submits that there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the alleged teaching of the ‘491 patent with the alleged teaching of the ‘347 patent such as to render obvious claims 1 – 4, 7 – 16, 19 – 23, 26, 27, and 29. Therefore, the rejection of claims 1 – 4, 7 – 16, 19 – 23, 26, 27, and 29 under 35 U.S.C. §103(a) should be withdrawn for at least the reason that the Examiner has failed to establish a *prima facie* case of obviousness.

However, even assuming for the sake of argument that there is some proper suggestion or motivation to modify or combine the ‘491 patent and the ‘347 patent as suggested in the Office Action, the combination of these references fails to disclose, teach, or suggest each and every element of independent claims 1, 8, 13, 20, and 27. MPEP §2143.03.

The wireless communication networks of independent claims 1, 8, 13, 20, and 27 are designed with “a plurality of [transceivers/wireless communication means] having unique identifiers... *further configured to receive the original data message transmitted by one of the other wireless transceivers and transmit a repeated data message* using the predefined communication protocol.” Unlike the wireless communication networks of independent claims 1, 8, 13, 20, and 27, the localized systems taught in the ‘491 patent contain machine monitors 4, inherently including a transmitter, that are merely capable of transmitting the original data message (col. 4, 41-50), but are not capable of transmitting a repeated data message. As shown in FIG. 1 of the application, sensor/actuator 130 may include a transceiver 135 which is *configured to receive the original data message*

transmitted by one of the other wireless transceivers and transmit a repeated data message.

Looking to FIG. 1 of the ‘491 patent, the Office Action associates the wireless transceivers (or wireless communications means) of claims 1, 8, 13, 20, and 27 with the machine monitors 4 of the ‘491 patent. As shown, the machine monitors 4a-4l are designed to relay data messages with either command station 6 or repeater 8a-8d, but not with other machine monitors. Only the repeaters 8a-8d of the ‘491 patent are designed to transmit a repeated data message. Notably, because repeaters 8a-8d are not associated with an individual machine monitor 4, the repeaters do not transmit a unique identifier. Thus, ‘491 patent does not disclose, teach, or suggest “a plurality of [transceivers/wireless communication means] having unique identifiers … ***further configured to receive the original data message transmitted by one of the other wireless transceivers and transmit a repeated data message.***”

Furthermore, the cellular networks taught in the ‘347 patent clearly do not disclose, teach, or suggest “a plurality of [transceivers/wireless communication means] having unique identifiers … ***further configured to receive the original data message transmitted by one of the other wireless transceivers and transmit a repeated data message.***”

The wireless communication networks of independent claims 1, 8, 13, 20, and 27 include a plurality of transceivers that are configured to ***transmit a repeated data message,*** which is not disclosed, taught, or suggested by the ‘491 patent and the ‘347 patent. Accordingly, and for at least this additional reason, Applicant respectfully submits that independent claims 1, 8, 13, 20, and 27 patently define over the ‘491 and ‘347 patents

and, therefore, should be allowed. Furthermore, because independent claims 1, 8, 13, 20, and 27 are believed to be allowable over the prior art of record, dependent claims 2 – 4 and 7 (which depend from independent claim 1), dependent claims 8 – 12 (which depend from independent claim 8), dependent claims 14 – 16 and 19 (which depend from independent claim 13), dependent claims 21 – 23 and 26 (which depend from independent claim 20), and dependent claim 29 (which depends from independent claim 27) are allowable as a matter of law for at least the reason that they contain all features and elements of the corresponding independent claim. See, e.g., *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Accordingly, Applicant respectfully asserts that a *prima facie* case of obviousness has not been established and requests that the rejection of dependent claims 2 – 4, 7, 9 – 12, 14 – 16, 19, 21 – 23, 26-27, and 29 be withdrawn.

IV. Claims 5, 6, 17, 18, 24 and 25 are Patentable Over U.S. Patent No. 5,907,491 in View of U.S. Patent No. 6,141,347 and Further in View of U.S. Patent No. 6,288,641

The Office Action rejects dependent claims 5, 6, 17, 18, 24, and 25 under 35 U.S.C. §103(a) as being unpatentable over the '491 patent in view of the '347 patent and further in view U.S. Patent No. 6,288,641 to Casais ("the '641 patent"). Without acquiescing to this argument, Applicant submits that this rejection is rendered moot in light of any of the arguments made above and, therefore, the claims are allowable as a matter of law for at least the reason that claims 5, 6, 17, 18, 24, and 25 contain all features and elements of their corresponding independent claim. See, e.g. *In re Fine*, 837 F. 2d 1071 (Fed. Cir. 1988). For at least this reason, Applicant requests that the rejection of claims 5, 6, 17, 18, 24, and 25 be withdrawn.

V. Claim 28 is Patentable Over U.S. Patent No. 5,907,491 in view of U.S. Patent No. 6,141,347 and further in view of U.S. Patent No. 6,060,994

The Office Action rejects claim 28 under 35 U.S.C. §103(a) as being unpatentable over the '491 patent in view of the '347 patent and further in view U.S. Patent No. 6,060,994 to Chen ("the '994 patent"). Without acquiescing to this argument, Applicant submits that this rejection is rendered moot in light of any of the arguments made above and, therefore, the claims are allowable as a matter of law for at least the reason that claim 28 contains all features and elements of its corresponding independent claim 27. See, e.g. *In re Fine*, 837 F. 2d 1071 (Fed. Cir. 1988). For at least this reason, Applicant requests that the rejection of claim 28 be withdrawn.

CONCLUSION

The Applicant respectfully submits that all claims are in condition for allowance, and requests that the Examiner pass this case to issuance. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those which may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor (including fees for net addition of claims) are hereby authorized to be charged to deposit account no. 20-0778.

Respectfully submitted,



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